
STATUTORY INSTRUMENTS

2019 No. 1416

**The Over the Counter Derivatives, Central Counterparties
and Trade Repositories (Amendment, etc., and Transitional
Provision) (EU Exit) (No. 2) Regulations 2019**

PART 3

AMENDMENT OF SUBORDINATE LEGISLATION

Amendment of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

3. In Article 35A (trade repositories) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽¹⁾, in paragraph (2) for “Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019” substitute “Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No.2) Regulations 2019”.

Amendment of the Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013

4.—(1) Article 1 (interpretation) of the Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013⁽²⁾ is amended as follows.

(2) In paragraph (3)⁽³⁾, at the beginning insert “Except as provided for in paragraph (3A)”.

(3) After paragraph (3) insert—

“(3A) In this Order a reference to the European Market Infrastructure Regulation is to be treated as a reference to that EU regulation as it has effect at the beginning of the day on which the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No.2) Regulations 2019 are made (but see regulation 2 of the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) (EU Exit) Regulations 2019, which may further update the reference).”

Amendment of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018

5. In regulation 2 (interpretation) of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018⁽⁴⁾, at the end of paragraph (e) insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

⁽¹⁾ [S.I. 2001/544](#). Article 35A was inserted by [S.I. 2013/504](#) and amended by [S.I. 2016/715](#) and regulation 130 of [S.I. 2019/632](#).

⁽²⁾ [S.I. 2013/419](#).

⁽³⁾ Paragraphs 3 to 7 are inserted by regulation 187 of [S.I. 2019/632](#).

⁽⁴⁾ [S.I. 2018/1115](#).

Amendment of the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018

6. In regulation 1(4) (citation, commencement and interpretation) of the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018⁽⁵⁾, in the definition of “the EMIR Regulation” at the end insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

Amendment of the Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018

7. The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018⁽⁶⁾ are amended as follows.

8. In regulation 3 (amendment of provision in respect of the requirements for trade repositories)

- (a) in sub-paragraph (a) for “points (a) to (p)” substitute “points (a) to (q)”;
- (b) omit sub-paragraph (c).

9. In regulation 4 (interpretation), at the end insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

Amendment of the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019

10. The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment etc., and Transitional Provision) (EU Exit) Regulations 2019⁽⁷⁾ are amended as follows.

11. In regulation 1 (citation, commencement and interpretation), in paragraph (2) in the definition of “EMIR regulation” at the end insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

12. In regulation 11(definitions)⁽⁸⁾—

- (a) in paragraph (7), in the new point (8) to be substituted by that paragraph, in the definition of “financial counterparty”—
 - (i) in sub-paragraph (d), at the end insert “unless that UCITS is set up exclusively for the purposes of serving one or more employee share purchase plans”;
 - (ii) omit the “or” at the end of sub-paragraph (e);
 - (iii) in sub-paragraph (f)—
 - (aa) after “Regulations 2013)” insert “which is either established in the UK or”;
 - (bb) at the end insert “unless that AIF is set up exclusively for the purpose of serving one or more employee share purchase plans or unless that AIF is a securitisation special purpose entity as defined in Article 4.1(an) of [Directive 2011/61/EU](#), and where relevant, its AIFM is established in the United Kingdom; or”;
 - (iv) at the end insert—

⁽⁵⁾ [S.I. 2018/1184](#) is amended by [S.I. 2019/405](#).

⁽⁶⁾ [S.I. 2018/1318](#).

⁽⁷⁾ [S.I. 2019/335](#).

⁽⁸⁾ Regulation 11(7) is amended by [S.I. 2019/710](#).

- “(g) a central securities depository authorised in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories(9).”;
 - (b) in paragraph (9), in the new point (13) to be substituted by that paragraph, in the definition of “competent authority”, in point (a), for “paragraphs (a) to (f)” substitute “paragraphs (a) to (g)”.
- 13.** In regulation 13 (intragroup transactions)—
 - (a) in paragraph (2)(b), in the text to be inserted at the end of Article 3(1), for “and” substitute “or”;
 - (b) in paragraph (3)—
 - (i) in sub-paragraph (a)(i)(bb), in the text to be inserted at the end of Article 3(2)(a)(i), for “and” substitute “or”;
 - (ii) in sub-paragraph (c)(ii), in the text to be inserted at the end of Article 3(2)(d), for “and” substitute “or”.
- 14.** In regulation 14(2) (clearing obligation)—
 - (a) for sub-paragraph (a) substitute—
 - “(a) in point (a)—
 - (i) in points (i) and (iii), for “meet the conditions” substitute “are subject to the conditions”;
 - (ii) in points (ii) and (iv), for “meets the conditions” wherever it appears substitute “is subject to the conditions”;
 - (iii) in points (iv) and (v), for “Union” wherever it appears substitute “United Kingdom”;
 - (b) omit sub-paragraph (b).
- 15.** In regulation 15(3) (clearing obligation procedure), in the substituted paragraph 2 of Article 5, in the first sub-paragraph, omit point (c).
- 16.** In regulation 19 (reporting obligation), omit paragraph (5).
- 17.** In regulation 20 (non-financial counterparties)—
 - (a) for paragraph (2) substitute—
 - “(2) In paragraph 1, in the second sub-paragraph, in point (a) for “ESMA and the relevant competent authority thereof” substitute “the FCA”;
 - (b) for paragraph (3) substitute—
 - “(3) In paragraph 2, in both places where it occurs, for “relevant competent authority” substitute “FCA”;
 - (c) in paragraph (4), in the text substituting paragraph 4 of Article 10, in the second sub-paragraph, after “where necessary,” insert “taking into account in particular the interconnectedness of financial counterparties.”
- 18.** In regulation 21(12) (risk-mitigation techniques for OTC derivative contracts not cleared by a CCP), in the text substituting paragraph 15 of Article 11, for “required for compliance with paragraph 3” substitute “referred to in paragraph 3, and the supervisory procedures to ensure initial and ongoing validation of those risk-management procedures.”

(9) Regulation (EU) No 909/2014 is amended by [S.I. 2018/1320](#).

Amendment of the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc.) (EU Exit) Regulations 2019

19. In regulation 1(4)(g) (interpretation) of the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc.) (EU Exit) Regulations 2019⁽¹⁰⁾ after “trade repositories” insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

Amendment of the Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019

20. In regulation 4(b)(i) (scope) of the Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019⁽¹¹⁾, in the words to be inserted into point (c) of paragraph 2 of Article 2 of Regulation (EU) 2016/1011, after “trade repositories” insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

Amendment of the Securitisation (Amendment) (EU Exit) Regulations 2019

21. In regulation 2 (interpretation) of the Securitisation (Amendment) (EU Exit) Regulations 2019⁽¹²⁾, in the definition of “the EMIR regulation” at the end insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

Amendment of the Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019

22. For regulation 4(2)(c) (definition of the EMIR regulation) of the Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019⁽¹³⁾ substitute—

- “(c) for the definition of “the EMIR regulation” substitute—
 ““the EMIR regulation” has the same meaning as in Part 18 of the Act (see section 313(1));”.

Amendment of the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019

23. In paragraph 63 of Schedule 1 (consequential amendments) to the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019⁽¹⁴⁾, in sub-paragraph (1), after “trade repositories” insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

Amendment of the Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019

24. In regulation 26 of the Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019⁽¹⁵⁾, after “trade repositories” insert “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”.

(10) S.I. 2019/541.

(11) S.I. 2019/657.

(12) S.I. 2019/660.

(13) S.I. 2019/681.

(14) S.I. 2019/685.

(15) S.I. 2019/710.

